

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor,

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

RICHARD EATON,

Defendant.

Adv. Pro. No. 10-05377 (SMB)

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**NOTICE OF MEDIATION REFERRAL AND MEDIATOR SELECTION**

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On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)<sup>1</sup> [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the

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<sup>1</sup> All terms not defined herein shall be given the meaning ascribed to them in the Order.

Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 1, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, the Trustee and Defendant may jointly agree to enter mediation prior to or upon completion of discovery without further court order. Avoidance Procedures, ¶ 5A. Through this Notice of Mediation Referral and Mediator Selection, the Trustee and Defendant (the “Parties”) hereby state that they have completed discovery in the above-referenced adversary proceeding and agree to be referred to mandatory mediation at this time.

Further, pursuant to the Avoidance Procedures and the Mediation Order, the Parties hereby mutually select the Honorable Allen Hurkin-Torres (Ret.) to act as Mediator in this matter.<sup>2</sup> The Parties further agree to contact the Honorable Allen Hurkin-Torres as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person’s law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

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<sup>2</sup> The parties note that Judge Hurkin-Torres is not on the Register of Mediators for the United States Bankruptcy Court for the Southern District of New York, but both parties have consented to use Judge Hurkin-Torres.

Dated: New York, New York  
December 8, 2020

**BAKER & HOSTETLER LLP**

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Liquidation of Bernard L. Madoff Investment  
Securities LLC and for the Estate of Bernard  
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